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Comment

- a bridge piece having a first lateral region and a second lateral region for selectively attaching and detaching said first lateral region to said first side piece and said second lateral region to said second side piece.

18. (Once Amended) The support device according claim [8] 17 wherein said bridge piece comprises at least two lift members.
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#### Remarks

The Office Action mailed September 24, 1999, has been received and carefully reviewed. Reconsideration and withdrawal of the rejections of the claims of the above-identified application is respectfully requested. Claims 1, 10, 17 and 18 have been amended. Support for all amendments is found in the specification. Accordingly, no new subject matter has been added.

#### Clarifying Amendments

Independent claim 1 has been amended to recite that the nasal support device is for supporting tissues overlying a first and second nasal passage "of an animal." Support for this amendment is found throughout the specification.

In addition to other amendments discussed below, the preamble of independent claim 17 was amended to delete the term "over" and insert the term --overlying-- therefor for clarification purposes.

Claim 18 was amended to correct a clerical error which recited an incorrect dependency from claim 8 rather than the appropriate recitation of dependency from independent claim 17.

### **Rejections Under 35 U.S.C. §102**

The Examiner rejected claim 20 under 35 U.S.C. §102(b) as being clearly anticipated by U.S. Patent No. 5,706,800 issued to Cronk et al. ("Cronk"). Request to cancel claim 20 has been made herein rendering this rejection moot. Applicant reserves the right to refile this claim at a later time.

The Examiner also rejected claims 17, 18 and 20 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,890,486 issued to Mitra et al. ("Mitra"). Request to cancel claim 20 has been made herein rendering the rejection moot as to this claim.

In view of the amendment to independent claim 17, from which claim 18 depends, it is believed that the rejection as applied to claim 17 is overcome. As amended, independent claim 17 clarifies that the bridge piece of the claimed device is selectively attachable and detachable from the first and second side pieces. Support for this amendment is found in the specification at, for example, page 35, line 5 - page 36, line 23. Mitra neither teaches nor suggests such a support device. Applicants further maintain that the invention of claim 18 is patentably distinct over the art, but in view of the amendment to independent claim 17 further discussion is unnecessary. Accordingly, the rejection of claims 17 and 18 as anticipated by Mitra is believed to be overcome.

The Examiner also rejected claims 1-7, 9-15, 17 and 18 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,533,499 issued to Johnson ("Johnson"). In view of the amendments to independent claims 1 and 10, from which the remaining claims depend, this

rejection is believed to be overcome. Specifically, in addition to reciting a support device for "animals," independent claim 1 now clarifies that the center transverse dimension and center longitudinal dimension are each the greatest dimension of the bilaterally symmetrical device in their respective orientations. Independent claim 10 is now limited to a device "sized and configured" for a horse. Such a structure is neither taught nor suggested by Johnson. In addition, Applicants maintain that the rejected claims which are dependent from claims 1 (claims 2-7 and 9) and 10 (claims 11-15) are each independently patentable. However, in view of the amendment to independent claims 1 and 10, further discussion regarding the patentability of the dependent claims is not believed to be necessary.

With regard to the Examiner's rejection of claims 17 and 18 as being anticipated by Johnson, in view of the amendment to independent claim 17, this rejection is believed to be overcome.

### **Rejections Under the Judicially Created Doctrine of Double Patenting**

The Examiner provisionally rejected claims 1-8 under the judicially created doctrine of double patenting over the claims of co-pending U.S. Serial No. 09/018,603. Applicants do not acquiesce to this rejection. However, because the present application claims a priority date of equal date to U.S. Serial No. 09/018,603, a patent issuing from the present application will terminate no later than a patent issuing from U.S. Serial No. 09/018,603. Accordingly, to expedite prosecution of the present application, Applicants will provide a Terminal Disclaimer in compliance with 37 C.F.R. §1.321 upon indication of allowable subject matter.

### **Non-Rejected Claims**

At page 1 of the Office Action, the Examiner indicated that claim 16 was objected to. However, the Office Action does not make clear the basis for this objection. However, in view of the foregoing discussion regarding the amendment to independent claim 10, from which claim 16 indirectly depends, the Examiner's objection to this claim is believed to be rendered moot.

Moreover, the Examiner did not set forth the basis for rejection of claims 8 and 19. Accordingly, in view of this action by the Examiner, Applicants understand this to indicate that these claims are in condition for allowance without further comment.

### **Petition for Extension of Time**

It is noted that a one-month extension of time is necessary, in order to provide for timeliness of the present response. Request for such an extension is made extending the time for response from December 24, 1999 to January 24, 2000.

### **Summary**

It is respectfully submitted that each of the presently pending claims (claims 1-19) are in condition for allowance and notification to that effect is requested.

The Examiner is invited to contact Applicants' representative at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted,

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DATE: 1/24/00

  
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